

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LUIS A. NIEVES,

Petitioner,

v.

LARRY FUCHS,

Respondent.

OPINION and ORDER

22-cv-337-jdp

Petitioner Luis A. Nieves, appearing pro se, is incarcerated at Columbia Correctional Institution under a series of state court convictions. He has filed what he calls a petition for compassionate release under 18 U.S.C. § 3582, as modified by the First Step Act, Pub. L. No. 115-391 (2018). Nieves attaches April 2022 decisions of the Milwaukee County Circuit Court denying his request for compassionate release. Dkt. 1–2. But this court cannot grant him the relief he seeks because § 3582 and the First Step Act apply to people sentenced in federal court; they do not apply directly to state court convictions. So I will deny his petition.

Even if I considered Nieves’s petition as one for a writ of habeas corpus under 22 U.S.C. § 2254, this court generally cannot grant a state prisoner’s request for habeas corpus relief without the prisoner first appealing a state circuit court’s decision to the Wisconsin Court of Appeals and Wisconsin Supreme Court. Nieves did not do so here. And in any event his request to the state circuit court was denied because Nieves asked for release under § 3582, which does not apply to him. Should Nieves continue to seek early release from his state court convictions, he needs to present to the state courts factual or legal grounds that apply to his convictions.

ORDER

IT IS ORDERED that petitioner Luis A. Nieves's petition for compassionate release, Dkt. 1, is DENIED.

Entered July 5, 2022.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge